

DISTRICT OF COLUMBIA
DOH Office of Adjudication and Hearings
825 North Capitol Street N.E., Suite 5100
Washington D.C. 20002
(202) 442-9091

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

BLADENSBURG AMOCO
and CASEY KEYEMEYADEL
Respondent

Case Nos.: I-00-20125

ORDER OF DISMISSAL

On October 10, 2000, this administrative court issued an Order Regarding Respondents' Request For Hearing. That order set a hearing date of November 8, 2000 and required the parties to file witness lists and copies of documents that they would seek to offer into evidence. All required filings were due ten (10) days before the hearing date.

The specified information is necessary as a matter of fundamental fairness to Respondents so that they may have adequate information to prepare their defense against the Government's prosecution. The information is also required in the interest of sound judicial administration, so that this administrative court can be properly prepared to conduct the hearing. For those reasons, the order made clear the consequences of the Government's failure to comply:

[B]ecause timely compliance with this Order is necessary to ensure a fair, just, prompt and orderly trial on the merits, should the Government, as prosecuting agent, fail to timely comply with the requirements of this Order, this case shall stand dismissed for want of prosecution for the Government's failure to indicate the existence and availability of evidence through which it can meet its burden of proof and burden of going forward with the evidence under the Civil Infractions Act of 1985 and other applicable law. *See* D.C. Code § 6-2713(a); SCR Civil Rule 41(b).

The deadline for filing has passed, and the Government has filed neither a witness list nor copies of any documentary evidence. It also has not filed a motion for an extension of the deadline. Accordingly, it has "failed to indicate the existence and availability of evidence through which it can meet its burden of proof and burden of going forward with the evidence," and the Notice of Infraction must be dismissed.

The October 10, 2000 order noted that Respondents had not provided any explanation for their untimely filing of an answer in this case, and stated that they would have an opportunity to do so at the November 8 hearing. Respondents, however, also did not file any witness list or documents that they plan to introduce into evidence. Accordingly, they have failed to indicate that they have any evidence of a good cause for their failure to file a timely answer to the Notice of Infraction, as required by D.C. Code § 6-2712(f). Because Respondents bear the burden of proof on this issue, the \$500.00 default penalty imposed by this administrative court's order of September 26, 2000 must remain in effect due to Respondents' failure to provide evidence of good cause.

Therefore, it is this _____ day of _____, 2000:

ORDERED, that Notice of Infraction No. 00-20125 is **DISMISSED** for want of prosecution; and it is further

ORDERED, that Respondents remain liable for a penalty of \$500.00 for their failure to file a timely answer to the Notice of Infraction; and it is further

ORDERED, that the November 8, 2000 hearing is **CANCELLED**; and it is further

ORDERED, that any motion by the Government requesting that this Order be vacated and the case restored to the docket for a hearing must be filed within fourteen (14) days of the date of this order and must show good cause why the case should not be dismissed. *See* SCR Civil Rule 41(b); and it is further

ORDERED, that any motion by Respondents requesting reconsideration of the imposition of the \$500.00 penalty must be filed within fourteen (14) days of the date of this Order and must show good cause for Respondents' failure to file its witness list and documents

and must show good cause for Respondent's failure to file a timely response to the Notice of Infraction; and it is further

ORDERED, that Respondents shall cause to be remitted a single payment totaling **FIVE HUNDRED DOLLARS (\$500.00)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715). A failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondents' license or permit pursuant to D.C. Code § 6-2713(f).

/s/ **11-03-00**

John P. Dean
Administrative Judge